

REMARKS

The Office Action mailed June 17, 2005 has been received and reviewed. Claims 1-14 stand rejected under Section 103 in view of combinations of Freeman (U.S. Patent No. 5,050,758), Moran (U.S. Patent No. 6,745,505), Reidinger et al. (U.S. Patent No. 6,311,860) and DeMars (U.S. 4,899,902). Applicant respectfully asserts that a *prima facie* case of unobviousness has not been established.

The principal aspect of the invention as claimed includes a detachable and interchangeable seal for a beverage cup lid. Nothing in the art as cited describes such a device, and only with considerable combination of references in hindsight can an obvious argument be made.

In order to establish a *prima facie* case of unobviousness, “[f]irst, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.” MPEP 2142.

With respect to claim 1, Applicant asserts that none of the cited references disclose a plate having a projection with a constant cross-section extending downwardly from a lower surface thereof. Nor does any reference disclose disposing such projection within an aperture

formed in a planar surface of a lid secured to a cup having the projection engaging the aperture in a friction fit and the plate extending beyond and edge of the cup.

These features provide important functionality not found in the prior art. The present invention provides a ready way to adapt a conventional lid having an aperture proximate the rim thereof to receive a label which also substantially seals the cup. The constant cross-section of the projection and the friction fit engagement thereof enable the projection to maintain itself within the aperture while the plate maintains the projection perpendicular to the upper surface and extends beyond the edge of the cup to provide a readily gripable member to remove the plate and projection.

The sealing member 14 and stem 19 of Freeman that extend downwardly from the deflectable member 13 are rounded in the areas that engage the aperture 15 and in fact grow larger in cross section with distance from the deflectable member 13. Furthermore, neither the sealing member 14 nor the stem 19 form a friction fit with the aperture 15, but rather depend on the biasing action of the deflectable member 13 to create a seal. Freeman also does not teach or suggest extending the deflectable member 13 beyond the edge of the cup. Freeman in fact teaches away from this configuration because the deflectable member 13 remains attached to the closure 10 during drinking and therefore any extension of the deflectable member 13 beyond the edge of the closure 10 would interfere with the lips and mouth of someone drinking from the cup. Still further Freeman teaches that the sealing member is attached to the cup lid in a permanent fashion, thereby preventing any selection of a seal from a plurality of seals.

The seal 60 of Reidinger does not include any projection extending into an aperture of the lid. Nor does Reidinger teach or suggest any such structure. Reidinger teaches only adhering the seal 60 over the recessed well 44. Col. 3, lns. 17-19. Securing a downwardly extending

projection to the seal 60 would destroy the principle of operation of Reidinger inasmuch as it would occupy the space within the well 44 needed to hold a game piece 54. Col. 4, lns. 45-51. Accordingly, Reidinger is insufficient to establish a *prima facie* case of obviousness. MPEP 2143.01 ("If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification").

Furthermore, none of the cited references recite a projection and plate as recited in claim 1 which is also fully separated from the lid. Freeman teaches away from separating the sealing member 14 and stem 19 from the closure 10, and thus clearly does not suggest modification to achieve the claimed configuration. The deflectable member 13 connecting the sealing members 14 and 19 to the closure 10 is necessary to pull the sealing members 14 and 19 into a sealing configuration. Col. 3, lns. 12-21. Severing the sealing members 14 and 19 from the closure would also destroy the principle of operation of Freeman and therefore Freeman is insufficient to establish a *prima facie* case of obviousness. MPEP 2143.01.

With respect to claim 8, as discussed above, Freeman in does not teach or suggest an upper surface of a plate for that is triangular in shape having a corner thereof extending laterally outwardly beyond the lid in a plane parallel to the planar surface of the lid. Freeman in fact teaches away from this configuration because the deflectable member 13 remains attached to the closure 10 during drinking and therefore any lateral extension of the deflectable member 13 beyond the edge of the closure 10 would interfere with the lips and mouth of someone drinking from the cup.

Claims 2-7 and 9-11 are dependent on allowable claim 1 and are therefore allowable for at least the reasons discussed hereinabove.

CONCLUSION

The claims as amended are believed to be in condition for allowance, and the applicants respectfully request reconsideration and allowance.

Respectfully submitted,

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